

**Subpart 970.23—Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety and Drug-Free Work Place**

**970.2301 Sustainable acquisition.**

**970.2301–1 Policy.**

There are many environmentally beneficial and resource efficient programs described in various subparts of FAR Part 23. For ease of use, DOE refers to all of these as the DOE Sustainable Acquisition Program with guidance for the many products at <http://www.hss.energy.gov/pp/epp>. Contractors operating DOE facilities shall comply with the requirements of Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, and Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance. The contractor shall also consider the best practices within the DOE Acquisition Guide, Chapter 23, *Acquisition Considerations Regarding Federal Leadership in Environmental, Energy, and Economic Performance*.

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**970.2301–2 Contract clauses.**

(a) Section 3(f) of Executive Order 13423 requires contractors to comply with the provisions of the Order to the same extent as the Federal agency would be required to comply if it operated the facility or fleet. Insert the clause at 970.5223–6, Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management, in such contracts.

(b) Insert the clause at 970.5223–6, Sustainable and Environmentally Preferable Purchasing Practices, or its Alternate I in contracts for the management and operation of DOE facilities, or other contracts under which the contractor manages Government facilities or fleets, or conducts mission operations at Government facilities, or performs construction at DOE facilities. Inclusion of this contract clause applies to contractors that are responsible for the management and operation of the DOE's facilities or the conduct of mission operations at the De-

partment's facilities, including elements of the National Nuclear Security Administration (NNSA), the Power Marketing Administrations, and the National Laboratories. All such contracts should also include the following clauses: FAR 52.223–2, Affirmative Procurement of Biobased Products under Service and Construction Contracts; FAR 52.223–10, Waste Reduction Program; FAR 52.223–XX, Compliance with Environmental Management Systems (see 923.903 regarding the applicability of this clause to specific DOE contracts); FAR 52.223–15, Energy Efficiency in Energy Consuming Products; and FAR 52.223–17, Affirmative Procurement of EPA-designated Items in Service and Construction Contracts.

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**970.2303 Hazardous materials identification and material safety.**

**970.2303–2–70 General.**

(a) The Department of Energy regulates the nuclear safety of its major facilities under its own statutory authority derived from the Atomic Energy Act and other legislation. The Department also regulates, under certain specific conditions, the use by its contractors of radioactive materials and ionizing radiation producing machines.

(b) The inclusion of environmental, safety and health clauses in DOE contracts shall be made by the contracting officer in accordance with this subpart and in consultation with appropriate environmental, safety and health program management personnel.

(c)(1) For DOE management and operating contracts and other contracts designated by the Senior Procurement Executive, or designee, the clause entitled “970.5215–3 Conditional Payment of Fee, Profit, and Other Incentives—Facility Management Contracts” implements the requirements of section 234C of the Atomic Energy Act for the use of a contract clause that provides for an appropriate reduction in the fee or amount paid to the contractor under the contract in the event of a violation by the contractor or any contractor employee of any Departmental regulation relating to the enforcement of worker safety and health concerns. The clause, in part, provides for reductions